

Message Text

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FM AMCONSUL MONTREAL

TO SECSTATE WASHDC 106

UNCLAS SECTION 1 OF 2 MONTREAL 0413

FROM USREP ICAO

E.O. 11652: NA

TAGS: PORG, EAIR, ICAO

SUBJECT: ICAO: SUMMARY REPORT, 23RD SESSION LEGAL COMMITTEE,

HELD 8-27 FEB, MONTREAL.

SUMMARY. COMMITTEE APPROVED A TEXT FOR AMENDMENT TO CHICAGO CONVENTION PERMITTING TRANSFER OF CERTAIN FUNCTIONS AND OBLIGATIONS UNDER CONVENTION FROM STATE OF REGISTRY TO STATE OF OPERATOR OF THE AIRCRAFT; COMMITTEE ALSO APPROVED CERTAIN TEXT AMENDMENTS TO ROME CONVENTION CONCERNING STATE OF OPERATOR; COMMITTEE DID NOT CHOOSE TO AMEND TOKYO CONVENTION BUT RECOMMENDED FURTHER STUDY IN FORM OF A QUESTIONNAIRE ON EXTENDING JURISDICTION TO STATE OF OPERATOR OF AIRCRAFT; COMMITTEE ADOPTED SAME WORK PROGRAM AS APPROVED BY RECENT ASSEMBLY AND COMMITTEE ELECTED NEW OFFICERS.

1. FOLLOWING TEXT AMENDMENT TO CHICAGO CONVENTION WAS APPROVED BY ICAO LEGAL COMMITTEE: ANNEX E, ARTICLE 83 BIS, TRANSFER OF CERTAIN FUNCTIONS AND DUTIES. A) NOTWITHSTANDING THE PROVISIONS OF ARTICLES 12, 30, 31 AND 32 (A), WHEN AN AIRCRAFT REGISTERED IN A CONTRACTING STATE IS OPERATED PURSUANT TO AN AGREEMENT FOR THE LEASE, CHARTER OF INTECHANGE OF THE AIRCRAFT OR ANY SIMILAR ARRANGEMENT BY AN OPERATOR WHO HAS HIS UNCLASSIFIED

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PRINCIPAL PLACE OF BUSINESS OR, IF HE HAS NOT SUCH PLACE OF BUSINESS, HIS PERMANENT RESIDENCE IN ANOTHER CONTRACTING STATE, THE STATE OF REGISTRY MAY, BY AGREEMENT WITH SUCH OTHER STATE, TRANSFER TO IT ALL OR PART OF ITS FUNCTIONS AND DUTIES AS STATE OF REGISTRY IN RESPECT OF THAT AIRCRAFT UNDER ARTICLES 12, 30, 31 AND 32 (A). THE STATE OF REGISTRY SHALL BE RELIEVED OF RESPONSIBILITY IN RESPECT OF THE

FUNCTIONS AND DUTIES TRANSFERRED. B) THE TRANSFER SHALL NOT HAVE EFFECT IN RESPECT OF OTHER CONTRACTING STATES BEFORE EITHER THE AGREEMENT BETWEEN STATES IN WHICH IT IS EMBODIED HAS BEEN REGISTERED WITH THE COUNCIL AND MADE PUBLIC PURSUANT TO ARTICLE 83 OR THE EXISTENCE AND SCOPE OF THE AGREEMENT HAVE BEEN DIRECTLY COMMUNICATED TO THE AUTHORITIES OF THE OTHER CONTRACTING STATE OR STATES CONCERNED BY A STATE PARTY TO THE AGREEMENT. C) THE PROVISIONS OF PARAGRAPHS (A) AND (B) ABOVE SHALL ALSO BE APPLICABLE TO CASES COVERED BY ARTICLE 77.

2. THE FOLLOWING TEXT AMENDMENTS TO THE ROME CONVENTION WERE APPROVED BY THE ICAO LEGAL COMMITTEE: ANNEX F, ARTICLE 15, PARAGRAPH. ANY CONTRACTING STATE MAY REQUIRE THAT THE OPERATOR OF AN AIRCRAFT REFERRED TO IN PARAGRAPH 1 OF ARTICLE 23 SHALL BE GUARANTEED BY INSURANCE OR ANY OTHER MEANS IN RESPECT OF HIS LIABILITY FOR DAMAGE SUSTAINED IN ITS TERRITORY FOR WHICH A RIGHT OF COMPENSATION EXISTS UNDER ARTICLE 1 UP TO THE LIMITS APPLICABLE ACCORDING TO THE PROVISIONS OF ARTICLE 11. THE OPERATOR SHALL PROVIDE EVIDENCE OF SUCH GUARANTEE IF THE STATE OVERFLOWN SO REQUESTS. ARTICLE 15, PARAGRAPH 7 (A). A CONTRACTING STATE OVERFLOWN MAY AT ANY TIME REQUIRE CONSULTATION WITH THE STATE OF THE AIRCRAFT'S REGISTRY, WITH THE STATE OF THE OPERATOR OR WITH ANY OTHER CONTRACTING STATE WHERE THE GUARANTEES ARE PROVIDED, IF IT BELIEVES THAT THE INSURER OR OTHER PERSON PROVIDING THE GUARANTEE IS NOT FINANCIALLY CAPABLE OF MEETING THE OBLIGATIONS IMPOSED BY THIS UNCLASSIFIED

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CONVENTION. ARTICLE 23, PARAGRAPH 1. THIS CONVENTION APPLIES TO DAMAGE CONTEMPLATED IN ARTICLE 1 CAUSED IN THE TERRITORY OF A CONTRACTING STATE BY AN AIRCRAFT REGISTERED IN ANOTHER CONTRACTING STATE OR BY AN AIRCRAFT, WHATEVER ITS REGISTRATION MAY BE, THE OPERATOR OF WHICH HAS HIS PRINCIPAL PLACE OF BUSINESS OR, IF HE HAS NO SUCH PLACE OF BUSINESS, HIS PERMANENT RESIDENCE IN ANOTHER CONTRACTING STATE. ARTICLE 30. STATE OF THE OPERATOR MEANS ANY CONTRACTING STATE OTHER THAN THE STATE OF REGISTRY ON WHOSE TERRITORY THE OPERATOR HAS HIS PRINCIPAL PLACE OF BUSINESS OR, IF HE HAS NO SUCH PLACE OF BUSINESS, HIS PERMANENT RESIDENCE.

3. THE LEGAL COMMITTEE AGREED THAT THE PROBLEM OF INCLUDING IN THE TOKYO CONVENTION A JURISDICTION FOR THE STATE OF THE OPERATOR OF LEASED AIRCRAFT SHOULD BE STUDIED.

4. THE LEGAL COMMITTEE AGREED ON THE FOLLOWING WORK PROGRAM: ANNEX C, GENERAL WORK PROGRAMME OF THE LEGAL COMMITTEE, PART A: SUBJECTS OF CURRENT STUDY. 1. LEASE, CHARTER AND INTERCHANGE OF AIRCRAFT IN INTERNATIONAL OPERATIONS (RESOLUTION B OF THE GUADALAJARA CONFERENCE) - PROBLEMS WITH RESPECT TO THE TOKYO CONVENTION. 2. CONSIDERATION OF THE REPORT OF THE

SUBCOMMITTEE ON THE PROBLEM OF LIABILITY FOR DAMAGE CAUSED BY NOISE AND SONIC BOOM. 3. LIABILITY OF AIR TRAFFIC CONTROL AGENCIES. 4. AERIAL COLLISIONS. 5. STUDY OF THE CONSOLIDATION OF THE INSTRUMENTS OF THE "WARSAW SYSTEM" INTO A SINGLE CONVENTION. 6. LEGAL STATUS OF THE AIRCRAFT COMMANDER. 7. STUDY OF A POSSIBLE CONSOLIDATION OF INTERNATIONAL RULES CONTAINED IN THE CONVENTION ON DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE (ROME, 1952), THE DRAFT CONVENTION ON AERIAL COLLISIONS AND THE SUBJECT OF LIABILITY OF AIR TRAFFIC CONTROL AGENCIES. 8. LEGAL STATUS OF AIRCRAFT; ASPECTS OTHER THAN THOSE FOUND IN THE TOKYO CONVENTION. 9. PROPOSED SIMPLIFICATION OF CONVENTION-MAKING PROCEDURES.

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5. PART B: SUBJECTS ON WHICH NO WORK SHOULD BE UNDERTAKEN UNLESS AND UNTIL A REPORT HAD BEEN SUBMITTED TO THE COUNCIL BY THE SECRETARY GENERAL OR BY THE CHAIRMAN OF THE LEGAL COMMITTEE INDICATING THE NEED FOR SUCH WORK AND COUNCIL HAD APPROVED, OR UNLESS THE ASSEMBLY OR COUNCIL OTHERWISE DIRECTED THAT ACTIVE WORK SHOULD BE UNDERTAKEN. 1. STUDY OF A SYSTEM OF GUARANTEES FOR THE PAYMENT OF COMPENSATION IN PURSUANCE OF THE WARSAW CONVENTION. 2 STUDY WITH A VIEW TO UNIFYING THE RULES RELATING TO PROCEDURE IN CASES ARISING UNDER CONVENTIONS ON AIR LAW AND OF THE RULES OF PROCEDURE APPLICABLE TO THE EXECUTION OF JUDGEMENTS.

6. THE LEGAL COMMITTEE ELECTED THE FOLLOWING OFFICERS:
CHAIRMAN - MR. A. KEAN (U.K.), FIRST VICE-CHAIRMAN - DR. G. F. FITZGERALD (CANADA), SECOND VICE-CHAIRMAN - MR. J. JUNEK (CZECHOSLOVAKIA SOCIALIST REPUBLIC), THIRD VICE-CHAIRMAN - MR. M. TRADO (VENEZUELA).
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